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*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

JAMES HELLER FAMILY, LLC, ESTATE OF
JAMES HELLER, BARBARA H. FRIETAG, as
personal representative and as an individual,
STEVEN P. HELLER, as personal representative
and as an individual, HARRY H. FALK, as personal
representative, STEVEN P. HELLER
REVOCABLE TRUST, a Florida trust, ROBERT P.
SALTSMAN, as trustee, EVE FRIETAG,
ELIZABETH FRIETAG DRANOFF, TRUST FBO
AN.D. [a minor] UNDER ARTICLES SIXTH AND

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-05419 (SMB)

EIGHTH OF THE LAST WILL AND
TESTAMENT OF JAMES HELLER, a New York
trust, BARBARA H. FRIETAG, as trustee, TRUST
FBO AL.D. [a minor] UNDER ARTICLES SIXTH
AND EIGHTH OF THE LAST WILL AND
TESTAMENT OF JAMES HELLER, a New York
trust, BARBARA H. FRIETAG, as trustee, TRUST
FBO S.H. [a minor] UNDER ARTICLES SIXTH
AND EIGHTH OF THE LAST WILL AND
TESTAMENT OF JAMES HELLER, a New York
trust, STEVEN P. HELLER, as trustee, TRUST
FBO KATHERINE HELLER UNDER ARTICLES
SIXTH AND EIGHTH OF THE LAST WILL AND
TESTAMENT OF JAMES HELLER, a New York
trust, STEVEN P. HELLER, as trustee,
KATHERINE HELLER, and ELEANOR
LEACOCK,

Defendants.

STIPULATION AND ORDER

WHEREAS, on December 10, 2010, Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et. seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, filed the above-captioned avoidance action (the “Action”) against James Heller Family LLC (the “LLC”), a Delaware limited liability company, Estate of James Heller (the “Heller Estate”), Barbara H. Freitag, Steven P. Heller and Harry H. Falk, as personal representatives of the Heller Estate (collectively, “Personal Representatives”), Barbara H. Freitag as an individual (“Freitag”), Steven P. Heller Revocable Trust (“Trust”), Robert P. Saltsman as trustee of the Trust (“Saltsman”), Steven P. Heller as an individual (“Heller”), and the following beneficiaries of the Estate: Eve Freitag, Elizabeth Freitag Dranoff, Trust FBO An.D. [a minor] Under Articles Sixth and Eighth of the Last Will and Testament of James Heller and Barbara H. Freitag, as trustee, Trust FBO Al.D. [a minor] Under Articles Sixth and Eighth of the Last Will and Testament of James Heller and Barbara H.

Freitag as trustee, Trust FBO S.H. [a minor] Under Articles Sixth and Eighth of the Last Will and Testament of James Heller and Steven P. Heller as trustee, Trust FBO Katherine Heller Under Articles Sixth and Eight of the Last Will and Testament of James Heller and Steven P. Heller as trustee, Katherine Heller, and Eleanor Leacock (collectively, the “Beneficiaries”).

WHEREAS, LLC was the holder of a BLMIS account;

WHEREAS, until his death on January 31, 2008, James Heller was a member of LLC and the holder of 99% of the membership interests of LLC, and following his death, James Heller’s interest in LLC passed to Heller Estate;

WHEREAS, Freitag is a member of LLC and the holder of one half of one percent (0.05%) of the membership interests of LLC;

WHEREAS, Trust is a member of LLC and the holder of one half of one percent (0.05%) of the membership interests of LLC; and

WHEREAS, on or about October 1, 2016, LLC filed a Certificate of Cancellation of Limited Liability Company with the Delaware Department of State, Division of Corporations dissolving the LLC.

IT IS THEREFORE MUTUALLY AGREED AND STIPULATED, by and between the Trustee, LLC, Heller Estate, the Personal Representatives, Freitag, Heller, Trust, Saltsman and the Beneficiaries as follows:

1. Heller Estate, the Personal Representatives, Freitag, Trust, Saltsman, and Heller (collectively referred to as “Defendants”) are hereby substituted in place of the LLC and for purposes of the Action, the Defendants being substituted will be deemed to be, and will be treated as, initial transferees and the Complaint shall be deemed so amended.

2. The caption of the Action is hereby amended as set forth on Exhibit A to this Stipulation.

3. Undersigned counsel for Defendants: (a) expressly represents that she has the authority to accept service of the Complaint on behalf of the Defendants, (b) waives service of the summons and the Complaint on behalf of the Defendants, (c) hereby waives any defenses based on insufficiency of process or insufficiency of service of process of the summons and Complaint on behalf of the Defendants, (d) waives any argument or defense that the LLC, and not the Defendants, is the initial transferee of the allegedly avoidable transfers that are the subject of the Action, and (e) expressly agrees that the amendment noted in paragraph 1 of this Stipulation shall not be considered an amendment under Federal Rule of Civil Procedure 15(a)(1)(A) or (B) and that any right of the Trustee to amend under Federal Rule of Civil Procedure 15(a)(1)(A) or (B) shall not be affected thereby.

4. Except as expressly set forth herein, the parties to this Stipulation reserve all rights, including defenses the Defendants may have to the Action and nothing herein shall be deemed or construed to have adjudicated the underlying allegations in the Action, including the avoidability of the challenged transfers as to the LLC.

5. This Stipulation may be signed by the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

Dated: October 3, 2016
New York, New York

Of Counsel:

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LLC and Bernard L. Madoff*

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Attorneys for Defendants

SO ORDERED.

Dated: October 4th, 2016
New York, New York

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT "A"

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ESTATE OF JAMES HELLER, BARBARA H.
FRIETAG, as personal representative and as an
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representative and as an individual, HARRY H.
FALK, as personal representative, STEVEN P.
HELLER REVOCABLE TRUST, a Florida trust,
ROBERT P. SALTSMAN, as trustee, EVE
FRIETAG, ELIZABETH FRIETAG DRANOFF,
TRUST FBO AN.D. [a minor] UNDER
ARTICLES SIXTH AND EIGHTH OF THE LAST
WILL AND TESTAMENT OF JAMES HELLER,
a New York trust, BARBARA H. FRIETAG, as
trustee, TRUST FBO AL.D. [a minor] UNDER
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WILL AND TESTAMENT OF JAMES HELLER,
a New York trust, STEVEN P. HELLER, as
trustee, TRUST FBO KATHERINE HELLER

UNDER ARTICLES SIXTH AND EIGHTH OF
THE LAST WILL AND TESTAMENT OF
JAMES HELLER, a New York trust, STEVEN P.
HELLER, as trustee, KATHERINE HELLER, and
ELEANOR LEACOCK,

Defendants.